

## REMARKS

### I. Introduction

By this amendment, claims 2 and 6 have been canceled without prejudice to or disclaimer of the subject matter contained therein. Claims 1, 4, 5, 8, 9, and 10 have been amended to incorporate the features of the canceled claims 2 and 6. For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art reference.

### II. In re Examiner's Comments on Applicants' November 11, 2004 Response

In Section 1 of the Office Action, dated June 2, 2005, the Examiner stated that the prescribed packet identifier recited in the claims does not "indicate any parameters of the prescribed packet identifier, so it can be read as being any identifying data, ..., including time stamps, chapter numbers, or camera angles." In addition, the Examiner indicated that "Magee, by performing operations based on the PID of the transport packet, differentiates packets with particular PIDs from those with other PIDs." The Applicants respectfully point out that by this Response, a prescribed packet identifier is defined as an identifier of at least one of video data and audio data, as recited in the amended independent claims 1, 4, 5, 8, 9, and 10.

The Examiner also stated that Magee discloses modifying input digital video by changing the sampling rate so that the bit rate is accordingly changed as well. The Applicants respectfully point out that Magee fails to disclose converting the "bit rate of the first TS packet string formed from TS packets that have a prescribed packet identifier", as recited in the amended claims 1, 4, 8, and 9.

III. The Rejection Of Claims 1-3 Under 35 U.S.C. § 102

Claims 1-3 are rejected under 35 U.S.C. § 102(b) as being anticipated by USP No. 5,835,493 to Magee. Applicants respectfully traverse this rejection for at least the following reasons.

Claims 1 recites in-part a stream converting method comprising a step of separating a first transport stream into a first TS packet string formed from TS packets that have a prescribed packet identifier of at least one of video data and audio data and a second TS packet string formed from TS packets that do not have the prescribed packet identifier, and a step of converting a bit rate of the first TS packet string so as to produce a third TS packet string.

Specifically, in accordance with one embodiment of the present invention, the packet separating section 103 separates the packets of the first transport stream TS1. More specifically, the first transport stream TS1 is separated into a first TS packet string P1 formed from TS packets that have a prescribed packet identifier (PID) **of at least one of video data and audio data**, and a second TS packet string PS2 formed from TS packets that do not have the prescribed PID. Every time the packet separating section 103 finds the header of a TS packet, it checks the PID of the video TS packet so as to output the separated TS packets to the bit-rate converting section 104 as the first TS packet string P1, while the remaining TS packets are output to the buffer section 107 as the second TS packet string P2 (see, page 13, lines 2-6 and page 14, lines 10-18 of the specification). Then, the rate converting section 302 of the bit-rate converting section 104 converts the bit rate of the **video data** (i.e., the first TS packet string formed from TS packets that have a packet identifier of video data) for the video PES packet PES1 output from the PES packet extracting section 301, and outputs the bit-rate converted PES packets CPES1 to the output control section 303 (see, e.g., page 4, lines 14-16 of the specification).

Turning to the cited prior art, it is asserted that Magee discloses, at col. 9, lines 22-28, the foregoing claim elements. However, at a minimum, Magee is silent with regard to separating a first transport stream into a first TS packet string formed from TS packets that have a prescribed packet identifier of at least one of video data and audio data and a second TS packet string formed from TS packets that do not have the prescribed packet identifier. Thus, Magee fails to disclose or suggest a stream converting method comprising a step of separating a first transport stream into a first TS packet string formed from TS packets that have a prescribed packet identifier of at least one of video data and audio data and a second TS packet string formed from TS packets that do not have the prescribed packet identifier, as recited in claim 1.

Furthermore, it is asserted in the Office Action that Magee discloses, at col. 3, lines 39-41, performing the bit rate conversion by the video preprocessor module 17, which performs different kinds of analysis and modification of the input digital video (see, page 3 of Office Action).

However, at the cited portion, Magee merely discloses performing analysis, such as sample rate conversion, so that the modified video is output to the video encoder module 19 via the V bus. Nowhere does Magee disclose or suggest converting a bit rate of the first TS packet string having a prescribed packet identifier. The Examiner has neither identified which elements of Magee correspond to the claimed first transport stream, second transport stream, second TS packet string and third TS packet string. Thus, at a minimum, Magee does not disclose or suggest converting a bit rate of the first TS packet string so as to produce the third TS packet, as recited in claim 1.

Anticipation under 35 U.S.C. § 102 requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference, *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983). Since Magee fails to disclose the foregoing claim elements, it is clear that Magee does not anticipate claim 1.

Therefore, it is respectfully submitted that claim 1 is patentable over Magee. Since claim 3 depends from claim 1, it is patentable for the reasons stated above with respect to claim 1 and for additional features recited therein. It is accordingly requested that rejection of claim 3 under 35 U.S.C. § 102(b) be withdrawn. Claim 3 is now in condition for allowance.

**IV. The Rejection Of Claims 4-10 Under 35 U.S.C. § 103**

In Section 5 of the Office Action, claims 4-10 are rejected under 35 U.S.C. § 103 as being unpatentable over Magee. The Applicants respectfully traverse this rejection for at least the following reasons.

Claim 4 recites a stream recording method comprising, in part, the steps of separating and converting as recited in claim 1. As discussed above, Magee does not disclose or suggest the features of “separating a first transport stream into a first TS packet string formed from TS packets that have a prescribed packet identifier of at least one of video data and audio data” and converting “a bit rate of the first TS packet string”. In addition, claim 4 recites steps of determining, with reference to the reference time, the time of receipt of each TS packet forming the second transport stream, and recording the second transport stream together with the determined time of receipt onto a recording medium.

Specifically, in accordance with one embodiment of the present invention, the buffer section 107 receives the second TS packet string P2 formed from the TS packets other than the video TS packets output from the packet separating section 103, the time of receipt T2 of each TS packet of the second TS packet string P2 output from the packet separating section 103, and the delayed reference time DST output from the system control section 102. When the time of receipt T2 of the

TS packet received from the packet separating section 103 matches the delayed reference time DST, the TS packet corresponding to that time of receipt is output to the packet multiplexing section 105.

In the pending Office Action, the Examiner asserts that the DLM 110 keeps track of the time each transport packet carrying a PCR is received. However, contrary to the conclusion set forth in the pending rejection, Magee discloses that the reference time information extraction and time of receipt determination are performed by using the DLM 110 to determine the “dwell” time (alleged delay) or time in which the program clock reference (PCR) (alleged reference time information) bearing the transport packet has been enqueued in the DLM 110, and that this dwell time is added to the PCR of the transport packet prior to transfer on the DM bus (see, e.g., col. 12, lines 41-48). As such, nowhere does Magee disclose or suggest determining, with reference to the dwell time which is added to the PCR, **the time of receipt** of each TS packet forming any second transport stream, or **recording** any second transport stream **with the determined time of receipt** onto a recording medium, as recited by claim 4. Indeed, the Examiner has neither identified which element of Magee corresponds to the time of receipt of each of the alleged TS packets. Magee merely discloses a dwell time but disclose or suggest neither determining a time of receipt of each TS packet in a second transport stream, nor recording a time of receipt onto a recording medium in the manner alleged by the Examiner. Thus, Magee fails to disclose or suggest the features as claimed in claim 4.

Claims 5 recites in-part a stream recording method comprising a step of selecting TS packets other than TS packets having a packet identifier **of at least one of video data and audio data** from a first transport stream TS1 so as to output the selected TS packets as a second transport stream TS2.

In accordance with one embodiment of the present invention, the packet separating section 103 separates the packets of the first transport stream TS1 into a first TS packet string P1 formed from TS packets that have a packet identifier (PID) of at least one of video data and audio data, and a second TS packet string P2 formed from TS packets that do not have the prescribed packet identifier or “TS packets other than packets having a packet identifier of at least one of video data and audio data” (see, e.g., page 13, lines 2-6, page 14, lines 10-18 of the specification). Thus, at a minimum, Magee fails to disclose or suggest a stream recording method comprising a step of selecting TS packets other than TS packets having a packet identifier of at least one of video data and audio data from a first transport stream TS1.

Additionally, claim 5 recites a stream recording method comprising a step of determining, with reference to the reference time, the time of receipt of each TS packet forming the second transport stream, and recording the second transport stream together with the determined time of receipt onto a recording medium. As discussed above regarding this feature with respect to claim 4, nowhere does Magee disclose or suggest determining, with reference to the dwell time which is added to the PCR, **the time of receipt** of each TS packet forming any second transport stream, or **recording** any second transport stream **with the determined time of receipt** onto a recording medium, as recited in claim 5.

As each and every limitation must be either disclosed or suggested by the cited prior art in order to establish a prima facie case of obviousness (see **M.P.E.P. §2143.03**), and Magee fails to disclose or suggest every limitation as claimed in claims 4 and 5, the Applicants respectfully request that rejection of claims 4 and 5 be withdrawn.

Claim 7 depends from either claim 4 or claim 5. Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplicatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, it is respectfully submitted that claim 7 is also in condition for allowance.

With regard to claim 8, as cited above, each and every limitation must be either disclosed or suggested by the cited prior art in order to establish a prima facie case of obviousness. Since claim 8 is parallel to claim 1 and Magee fails to disclose or suggest each and every limitation recited in claim 1, Magee can not be used to establish a prima facie case of obviousness under **M.P.E.P. §2143.03** with respect to claim 8. Therefore, it is respectfully requested that rejection of claim 8 under 35 U.S.C. § 103 be withdrawn and claim 8 is now in condition for allowance.

Claim 9 is parallel to claim 4. As discussed above, Magee fails to disclose or suggest each and every limitation as claimed in claims 4 and can not be used to establish a prima facie case of obviousness under **M.P.E.P. §2143.03** with respect to claim 4. Accordingly, Magee can not be used to establish a prima facie case of obviousness with respect to claim 9, either. Therefore, it is respectfully submitted that claim 9 is in condition for allowance.

Claim 10 is parallel to claim 5. As discussed above, Magee fails to disclose or suggest each and every limitation as claimed in claims 5 and can not be used to establish a prima facie case of obviousness under **M.P.E.P. §2143.03** with respect to claim 5. Accordingly, Magee can not be used to establish a prima facie case of obviousness with respect to claim 10, either. Therefore, it is respectfully submitted that claim 10 is in condition for allowance.

For all of the foregoing reasons, it is submitted that claims 1, 3, 4, 5, 7-10 are patentable over the cited prior art. Accordingly, it is respectfully submitted that the rejections of claims 1 and 2 under 35 U.S.C. § 102 and claims 4-10 under 35 U.S.C. § 103 have been overcome.

**V. Conclusion**

Accordingly, it is urged that the application is in condition for allowance, an indication of which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT WILL & EMERY LLP



Michael E. Fogarty  
Registration No. 36,139

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
202.756.8000 MEF/AHC/QH/dlb  
Facsimile: 202.756.8087  
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